

BEN LO
ANYWHERECOMMERCE vs INGENICO, INC.

December 08, 2021
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7	BBPOS LIMITED		8		
8	VS. C.A. No. 1:19-cv-11457-IT		9		
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5	LAW OFFICES OF KUTAK ROCK, LLP			(1p)	
6	1801 CALIFORNIA STREET, SUITE 3000		5	Exhibit 45 E-mail string (2pp)	235
7	DENVER, COLORADO 80202		6	Exhibit 46 E-mail string (6pp)	235
8	BY: OLIVER D. GRIFFIN, ESQUIRE		7	Exhibit 47 E-mail dated 2/2/12	235
9	BY: MELISSA A. BOZEMAN, ESQUIRE		8	(4pp)	
10	oliver.griffin@kutakrock.com		9	Exhibit 48 E-mail string (2pp)	235
11	melissa.bozeman@kutakrock.com		10	Exhibit 49 E-mail dated 6/5/12	235
12	COUNSEL FOR THE DEFENDANTS:			(2pp)	
13	LAW OFFICES OF ADLER, POLLACK & SHEEHAN		11	Exhibit 50 E-mail string (4pp)	235
14	ONE CITIZENS PLAZA, 8TH FLOOR		12	Exhibit 51 E-mail string (6pp)	235
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16	BY: JEFFREY K. TECHENTIN, ESQUIRE		14	(1p)	
17	jtechentin@apslaw.com		15	Exhibit 53 Correspondence dated	235
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<p style="text-align: right;">Page 5</p> <p>1 (DEPOSITION COMMENCED AT 12:32 P.M.)</p> <p>2 BEN LO,</p> <p>3 being duly sworn, deposes testifies as follows:</p> <p>4 THE REPORTER: Would you please state</p> <p>5 your name for the record.</p> <p>6 THE VIDEOGRAPHER: This is media unit</p> <p>7 one to the video recorded deposition of Ben Lo in</p> <p>8 the matter of AnywhereCommerce, Inc., et al.</p> <p>9 versus Ingenico, Inc., et al., heard before the</p> <p>10 United States District Court for the District of</p> <p>11 Massachusetts, Case Number 1:19-cv-11457-IT.</p> <p>12 This deposition is being held remotely using</p> <p>13 Esquire Control Remote Technology, and the</p> <p>14 witness is located in Vancouver, Canada on</p> <p>15 December 8, 2021 at 9:36 a.m.</p> <p>16 My name is Heidi Stuart, and I'm the</p> <p>17 videographer. The Court Reporter is Denise Webb.</p> <p>18 Counsel, will you please introduce yourselves and</p> <p>19 your affiliations, and the witness will be sworn.</p> <p>20 MR. TECHENTIN: Jeffrey Techentin at</p> <p>21 Adler Pollock & Sheehan, P.C. on behalf of the</p> <p>22 defendants.</p> <p>23 MR. GRIFFIN: Oliver Griffin, Kutak</p> <p>24 Rock, on behalf of the plaintiffs and the witness</p> <p>25 today.</p>	<p style="text-align: right;">Page 7</p> <p>1 EXAMINATION BY MR. TECHENTIN:</p> <p>2 Q. Good morning, Mr. Lo. Before we get started,</p> <p>3 maybe I'll just ask you, have you ever given a</p> <p>4 deposition before?</p> <p>5 A. Yes.</p> <p>6 Q. How many times?</p> <p>7 A. One.</p> <p>8 Q. And in what circumstance did you give a</p> <p>9 deposition previously?</p> <p>10 A. We were suing a company in the U.S., and I'm</p> <p>11 one of the witnesses to give the deposition.</p> <p>12 Q. When did that happen, your deposition?</p> <p>13 A. Five years ago.</p> <p>14 Q. Were you a party to that litigation?</p> <p>15 A. Yes.</p> <p>16 Q. Personally or your company?</p> <p>17 A. My company.</p> <p>18 Q. Was that BBPOS Limited?</p> <p>19 A. Yes.</p> <p>20 Q. And who was the defendant in that case?</p> <p>21 A. Samsung Pay.</p> <p>22 Q. Were there any other parties to the case other</p> <p>23 than BBPOS Limited and Samsung Pay?</p> <p>24 A. No.</p> <p>25 Q. Were you represented?</p>
<p style="text-align: right;">Page 6</p> <p>1 MS. BOZEMAN: Melissa Bozeman, Kutak</p> <p>2 Rock, on behalf of the plaintiffs.</p> <p>3 THE WITNESS: Ben Lo.</p> <p>4 MR. TECHENTIN: Good morning, Mr. Lo.</p> <p>5 My name is Jeffrey Techentin. As I said a few</p> <p>6 moments ago, I'm from the law firm of Adler</p> <p>7 Pollock & Sheehan, and I'm here today</p> <p>8 representing the defendants.</p> <p>9 I have some -- I'll have some questions for</p> <p>10 you, but before we get into that, I'd like to get</p> <p>11 on the record an agreement that I think we have</p> <p>12 between the plaintiffs and the defendants</p> <p>13 regarding this deposition.</p> <p>14 And it is the following: That this</p> <p>15 deposition, which is being conducted remotely</p> <p>16 over Zoom, with the court reporter who's located</p> <p>17 in Rhode Island, with yourself in Vancouver,</p> <p>18 Canada, is duly noticed and taken under Rule 30</p> <p>19 of the Federal Rules of Civil Procedure, and that</p> <p>20 it may be used in this case as a deposition in</p> <p>21 compliance with Rule 30. Counsel, do I have</p> <p>22 agreement on that?</p> <p>23 MR. GRIFFIN: Yes.</p> <p>24 MR. TECHENTIN: Thank you.</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Yes.</p> <p>2 Q. By whom?</p> <p>3 A. What? Can you say again?</p> <p>4 Q. Who represented you?</p> <p>5 A. Who represent -- I forget that. I forget</p> <p>6 that.</p> <p>7 Q. You had a lawyer though?</p> <p>8 A. I have a lawyer, yes.</p> <p>9 Q. And you don't remember who the lawyers were for</p> <p>10 you in the litigation with Samsung?</p> <p>11 A. I forget. It was not arranged by me.</p> <p>12 Q. It appears your lips are moving. I don't know if</p> <p>13 you're actually saying something, and I can't</p> <p>14 hear it.</p> <p>15 A. The lawyer was not arranged by me, so I don't</p> <p>16 know. I forget name of the law firm or lawyers.</p> <p>17 Q. The lawyer was not arranged by you; is that what</p> <p>18 you're saying?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Where did that deposition take place?</p> <p>21 A. California, San Francisco.</p> <p>22 Q. All right. So if you've given a deposition</p> <p>23 before, you probably are familiar with the format</p> <p>24 here. And your lawyers may have told you much of</p> <p>25 this before we got started today. But you</p>

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1 remember what -- what meeting is for what.	1 A. Yes.
2 Q. How do you know that the -- that this meeting	2 Q. And as part of that process, did someone look at
3 where the trade secret information was disclosed	3 your e-mails?
4 occurred between the signing of the term sheet	4 A. I think so. I think they looked at our
5 and when the deal discussions broke down in mid	5 e-mail.
6 June?	6 Q. And did somebody also look at your laptop or
7 A. How do I know? Because the DD process, Jimmy	7 whatever computer you use for work?
8 and Daniel told me that. They ask a lot of feed	8 A. I'm not sure. I just have the IT team to
9 out (phonetic) questions.	9 coordinate with (inaudible).
10 Q. Did Ingenico send an agenda for that meeting?	10 Q. If there were an agenda for a meeting between
11 A. I don't remember that.	11 ROAM Data and BBPOS for this due diligence
12 Q. Would it be unusual to have a meeting without an	12 process, you would have gotten in your e-mail,
13 agenda in advance?	13 correct?
14 A. No. You can send agenda. It would be from	14 A. Yes.
15 ROAM Data from Will Graylin.	15 Q. And that would have been gathered as part of the
16 Q. My question is, given that it's not a simple	16 process in this case; is that fair?
17 thing to fly from Boston or France to Hong Kong,	17 MR. GRIFFIN: Objection.
18 it would be typical to make arrangements for the	18 A. Yes.
19 meeting in advance, right?	19 Q. You didn't do anything to remove those types of
20 A. Yes.	20 e-mails before they were produced in this case,
21 Q. And that would typically be done in writing, by	21 right?
22 e-mail, right?	22 A. Yes.
23 A. Yes.	23 Q. I think you mean -- no -- you didn't take those
24 Q. And that would include setting up an agenda for	24 documents out of your e-mail before so they
25 discussions, correct?	25 wouldn't get to us, right?
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1 A. Yes.	1 A. I didn't take the e-mail off. Yeah. I
2 Q. Have you seen any correspondence regarding	2 didn't take the e-mail off.
3 setting up a meeting or an agenda for a meeting	3 Q. So I want to go back to something you said
4 between March and June of 2012?	4 earlier today, which was -- let me see if I
5 A. I think so, but I don't remember that.	5 understand the time line correctly here. So, in
6 Q. Were you involved in the gathering of the	6 2012, there's a potential deal with ROAM Data,
7 documents that were produced in this case?	7 and also in 2012, you give a bunch of trade
8 A. Yeah. Some of the document, yeah.	8 secret information to ROAM Data, right?
9 Q. What was your role in the document-gathering	9 A. Yes.
10 process?	10 Q. And pretty shortly thereafter, Will Graylin tells
11 A. Just give the instruction of -- like, I asked	11 you, I've been fired because I had a problem
12 Daniel and Jimmy to provide the information. So	12 sharing your secrets with Ingenico, right?
13 my role was more like project manager.	13 A. Yes.
14 Q. Did you yourself provide documents that would be	14 Q. And but Ingenico -- strike that. But ROAM Data
15 considered in this litigation?	15 wants to give your information -- your secret
16 A. No. No.	16 information to Ingenico, right?
17 Q. Did anybody ask for your e-mails?	17 A. I don't know.
18 A. Yes.	18 Q. Well, that's what Will said to you, right?
19 Q. Okay. Were your e-mails subject to whatever	19 A. Yeah. He told me, but I don't know whether
20 process it was that gathered documents in this	20 this is true or not true.
21 case?	21 Q. Am you knew that ROAM Data, in fact, hadn't all
22 A. Can you repeat your question?	22 of the information that we've talked about here
23 Q. Sure. I'm just trying to understand -- I assume	23 today, right?
24 your lawyers ran through the process of gathering	24 A. Yes.
25 documents in this case; is that right?	25 Q. So you know it was capable of providing that